

General Appeal Information

DISCLAIMER

This page is intended for informational purposes only. The informational page may be revised at any time without notice. The material in this informational page shall not be construed as a ruling specific to any issue or proceeding. There may be other approaches to value that can be used. This information is not intended to be a comprehensive statement.

In an effort to assist parties in presenting a case before the Indiana Board of Tax Review, the Board provides the following information:

2002 Reassessment

The focus of the 2002 assessment rules is to determine the true tax value of a property, rather than the application of any specific assessment method. True tax value is defined as “the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user from the property.” 50 IAC 2.3-1-2. True tax value may be thought of as the price the property owner would command from a buyer, because this value represents the utility obtained from the property and the price represents how much utility must be replaced in order for the owner to abandon the property.

Assessment and Valuation Dates

For the 2002 general reassessment, the true tax value of a property is estimated as of January 1, 1999. 2002 Real Property Assessment Manual at 8 (the Manual). The assessment reflects the conditions of the property as of the assessment date. Thus, for an appeal of a property’s March 1, 2005, assessment, the taxpayer’s evidence should reflect the property as it physically existed on March 1, 2005, valued as of January 1, 1999. When Annual Adjustments are implemented the valuation date will change accordingly.

For example, if a house is built in 2001 and a sunroom is added in 2006, for the March 1, 2005, assessment, the property’s valuation is based on the value of the house without the sunroom as of January 1, 1999. Similarly, if a house was constructed in 1912 and renovated in 2006, the March 1, 2005, assessment is based on the house before renovation but valued as of January 1, 1999.

Failure to provide an appraisal or sales information with a January 1, 1999, valuation date, or failure to relate the value of an earlier or later-dated appraisal or sales information to the January 1, 1999, valuation date, may result in the appraisal or sales information being rejected by the Board as not probative of the property’s true tax value. See *Long v. Wayne Township Assessor*, 821 N.E.2d 466, 469 (Ind. Tax Ct. 2005) (Indiana’s assessment regulations state that for the 2002 general reassessment, a property’s assessment was to reflect its value as of January 1, 1999. See Manual at 4. The insurance policy and the independent appraisal, however, indicate property values for 2003 and 2004. Consequently, the Longs were required to provide some explanation as to how these values demonstrate, or are relevant to, the subject property’s value as of January 1, 1999. Because the Longs provided no such explanation, these documents likewise do not carry any probative value). To relate an earlier or later-dated appraisal or sale to the January 1, 1999, valuation date, a taxpayer must offer probative evidence about market changes in the area of the subject property.

Both parties must establish how their evidence is relevant to the January 1, 1999, market value-in-use of the property under appeal.

Fair Market Value

“[A] taxpayer shall be permitted to offer evidence relevant to the fair market value-in-use of the property to ... establish the actual true tax value of the property as long as such information is consistent with the definition of true tax value provided in this Manual and was readily available to the assessor at the time the assessment was made. Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals that are relevant to the market value-in-use of the property, and any other information *compiled in accordance with generally accepted appraisal principles*.” See Manual at 5 (emphasis added).

“Traditionally, the appraisal profession has used three approaches, or three methods, in determining the value of real property. The first approach, known as the *cost approach*, estimates the value of the land as if vacant and then adds the depreciated cost new of the improvements to arrive at a total estimate of value. The second approach, known as the *sales comparison approach*, estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in the market. The third approach, known as the *income approach*, is used for income producing properties that are typically rented. It converts an estimate of income, or rent, the property is expected to produce into value through a mathematical process known as capitalization.” Manual at 3.

The Indiana Tax Court has repeatedly stated that “the most effective method to rebut the presumption that an assessment is correct is through the presentation of a market value-in-use appraisal, completed in conformance with the Uniform Standards of Professional Appraisal Practice (USPAP).” *Kooshtard Prop. VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005), *reh'g denied*. Additional market data that may be relevant to the true tax value of a property include data relating to the sale or purchase of the subject property, cost data and sales comparison information.

Sales information.

The sale or purchase of the subject property is often the best evidence of its market value. Items such as purchase agreements, closing statements, or escrow statements, may be submitted as evidence of the sale or purchase price of the subject property. However, if the sale is a tax sale, estate sale, not an arm's-length transaction, or in any way does not represent market value, the sale or purchase information is unlikely to be deemed “probative.” Further, the taxpayer must explain how the sale is relevant to the January 1, 1999, valuation date.

Construction cost.

Further, the value of a property could be shown by its construction cost. Construction cost should include direct labor and material cost plus indirect expenses required to construct improvements. Direct cost includes, but is not limited to, labor, materials, supervision, utilities used during construction and equipment rental. Indirect cost includes building permits, fees, insurance, taxes, construction interest, overhead, profit and professional fees. It is critical that the construction costs represent all costs (direct and indirect) regardless of whether or not they were realized, as in the case of do-it-yourself construction. Real Property Assessment Guideline –

Version A at 1. (Guideline). Also, the taxpayer must explain how the cost data is relevant to the January 1, 1999, valuation date.

Comparable properties.

The value of a property may also be shown by sales information of “comparable” properties. Anyone who attempts to rely on such evidence must prove “comparability”. Conclusory statements that a property is “similar” or “comparable” to another property do not constitute probative evidence of the comparability of the two properties. *Long*, 821 N.E.2d at 470. Instead, the proponent must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.*

Thus, a taxpayer could provide evidence of other homes built by the same builder, of the same model, with the same amenities, and on the same size lot in the same community to show the value of the taxpayer’s property. Unless the properties are truly “identical” the taxpayer must account for any differences between the homes.

As the Indiana Tax Court stated in *Fidelity Federal Savings & Loan v. Jennings County Assessor*, 836 N.E.2d 1075, 1082 (Ind. Tax Ct. 2005), “the Court has frequently reminded taxpayers that statements that another property ‘is similar’ or ‘is comparable’ are nothing more than conclusions, and conclusory statements do not constitute probative evidence. Rather, when challenging an assessment on the basis that comparable property has been treated differently, the taxpayer must provide specific reasons as to why it believes the property is comparable. These standards are no less applicable to assessing officials when they attempt to rebut a prima facie case.” 836 N.E.2d at 1082 (citations omitted).

General Information

The Board cannot change tax rates. It reviews only the assessment, not the amount of taxes paid. The amount of taxes paid may vary for similar properties as a result of deductions or credits to which the owner is entitled.

The Board reviews all evidence presented by both parties and makes its determination on the evidence. The Board’s decision will be in writing and contain instructions for appealing to the Indiana Tax Court.

Additional information, including recent decisions of the Board, may be found at <http://www.in.gov/ibtr>. The Indiana Code is available on the internet at <http://www.in.gov/legislative/ic/code>.